

July 8, 2022

BY EMAIL

New York State Education Department
89 Washington Avenue, Room 2M
Albany, NY, 12234
REGCOMMENTS@nysed.gov

Re: Comments on Special Appeal Amendment of 8 NYCRR § 100.5(d)(7)

The Coalition for Multiple Pathways to a Diploma submits these comments on the proposed amendment of section 100.5(d)(7) to allow a special appeal for Regents examinations taken in the 2021-2022 and 2022-2023 school years to earn a diploma. We are a statewide coalition with more than 80 members, including advocates, teachers, administrators, parents, and youth, representing a broad cross-section of New Yorkers, including students with disabilities, multilingual learners, and economically disadvantaged students. Our coalition advocates for multiple instructional and assessment pathways to a high school diploma, each of which holds all students to high expectations, provides them with meaningful instruction, and opens doors to career and post-secondary educational opportunities.

The Coalition strongly supports expanding pathways to graduation for students who have mastered State standards, but struggle to demonstrate their knowledge and skills on the Regents exams. The impact of COVID-19 on student learning over the past two years has only made more apparent the need for more meaningful ways to measure student readiness to graduate.

We are very pleased that the proposed amendment to add a special appeal (8 NYCRR § 100.5(d)(7)), adopted as an emergency measure by the Board of Regents, will open the door to college and career pathways for some students who might otherwise leave high school without a diploma and help more young people to graduate when they have passed Regents-level courses and demonstrated mastery of State standards.

We are recommending a further amendment to strengthen this provision for students with disabilities. We are concerned that this emergency regulation is not accessible to many students with disabilities who use a superintendent determination in order to meet high school graduation requirements. As described in more detail below, prior to permanent adoption, we urge you to amend the regulations to extend the special appeal to students with disabilities who are using a superintendent determination.

Moreover, while there is no question that the special appeal will be helpful to some students who might otherwise leave high school without a diploma, despite having mastered course content, we have also been calling on the State to *decouple Regents exams from graduation requirements*, an action that is

clearly within the authority of the State Education Department. We continue to strongly urge the State to immediately decouple exit exams from graduation requirements, as the vast majority of states have done, instead of making piecemeal adjustments to a system that continues to require students to meet threshold scores on high-stakes exams in order to graduate.

1. Expand Access to Special Appeal to All Students with Disabilities Graduating Under a Superintendent Determination Pathway

While this special appeal opens the door to college and career pathways for some students who might otherwise leave high school without a diploma, it also leaves out a subset of students with disabilities who have otherwise met New York state graduation standards. The superintendent determination allows students with disabilities to graduate from high school without passing the 4+1 exit exams typically required for a diploma. Students with disabilities are eligible for this pathway if they pass all their required coursework, attempt all required Regents exams, and either pass both the Math and ELA Regents exams or get a CDOS Credential. Unfortunately, NYSED guidance makes clear that students seeking to graduate using this pathway cannot take advantage of the special appeals rule. In other words, they still must pass the ELA and Math Regents exams with a score of at least 55, or successfully appeal scores of 52-54, if that is the route they take to get a superintendent determination. They cannot appeal Math and ELA Regents exam scores of 50-51, as other students can do under the special appeal rule, if they are using the superintendent determination.

In practice, this arbitrary dividing line does not meaningfully identify those who have mastered state standards and are ready to graduate high school. For example, a student who passed their classes and scored 49 on three Regents exams and 51 on their Math and ELA exams would not meet New York State diploma requirements. However, a student who passed their classes and scored 50 on five Regents exams would be eligible to graduate. This slight difference in scores can determine students' post-high school college and career opportunities. It is also bound to add to the web of confusion around graduation requirements, especially for families whose primary language is not English.

While students with disabilities in the situation described above may still be able to graduate with a local diploma in June 2022 pursuant to the recently adopted emergency regulations adding a new "special determination" to graduate with a local diploma (8 NYCRR § 100.5(d)(14)), the special determination is only for students graduating in June 2022, so we are concerned about students with disabilities graduating after June 2022.

NYSED should amend the regulations to let all students with disabilities access the special appeal option equally, no matter what graduation pathway they use to access a diploma, so long as they have meaningfully shown they meet New York State standards for graduation.

2. Immediately Decouple Regents Exam Requirements from Graduation Requirements and Ultimately Rethink the Existing Graduation Framework to Develop Pathways to a Diploma That Do Not Rely on High-Stakes Exit Exams

Although we are pleased that this amendment allows more students who have mastered course content to meet graduation requirements, we remain concerned that New York State continues to rely on a complicated framework of exit exam requirements that do little to ensure that students are college or career ready. This framework requires students to take high-stakes standardized tests and unfairly penalizes many students who struggle to demonstrate what they know on these types of assessments.

Rather than continuing to adjust the current system through a series of piecemeal actions, we encourage NYSED and the Board of Regents to immediately decouple Regents exams from high school graduation requirements. No federal law requires that students pass high-stakes exit exams in order to graduate from high school, and New York is one of only 11 states that still tie exit exams to graduation.

We are hopeful that the Board of Regents' Blue Ribbon Commission and Performance-Based Learning and Assessment Networks Pilot, focused on re-thinking graduation requirements in New York, will lead to meaningful long-term change. We encourage New York to develop and support performance-based assessments in lieu of high-stakes exams and to ensure that all pathways and options are available to all students. However, students cannot wait for the completion of this work. NYSED and the Board of Regents should immediately decouple Regents exams from high school graduation requirements while reexamining the State's entire system of pathways to a diploma.

Thank you for considering our comments. If you have any questions, please feel free to contact Juliet Eisenstein at jeisenstein@advocatesforchildren.org.

Advocates for Children of New York • Alliance for Quality Education • ARISE Coalition • Asperger Syndrome & High Functioning Autism Association • Big Picture Learning • David C. Bloomfield, Esq., Professor of Educational Leadership, Law & Policy, Brooklyn College and The CUNY Graduate Center • Bronx Independent Living Services • Brooklyn Defender Services • Brooklyn Center for the Disabled • Business Teachers Association of New York State • Campaign for Tomorrow's Workforce • Capital Region Refugee Roundtable • Careerwise New York • Center for Independence of the Disabled, New York • Citizens' Committee for Children of New York • Lisa Finnerty Coggi, Parent/Advocate • Community Service Society • Council for a Strong America • Council of Family and Child Caring Agencies • Valerie DeClara, Parent • Della DeKay JD, EdD • Max Donatelli, Family Advocate • Eskolta School Research and Design • Irja Estrella, Parent • Families Together in New York State • Candida Figueroa, Teacher • Ann Marie Fitzpatrick, Parent • ExpandedED Schools • Flanbwayan Haitian Literacy Project • Jennifer Ghidui, Parent/Advocate • Michael Godino, Advocate • Good Shepherd Services • Roberta Grogan, Parent/Advocate • Lorri Gumanow, Parent/Special Educator • Meghan Healy • HERE to HERE • Rochelle Hoot, Special Education Administrator • Katherine Hoy, LMSW • Shelley Hubal, Parent • INCLUDEnyc • Muronji Inman-McCraw • Internationals Network for Public Schools • Lawyers for Children, Inc. • Learning Disabilities Association of New York State • Jill Lewis-Flood, Parent/PIP Member • April Leong, Principal, Liberation Diploma Plus High School • JobsFirstNYC • Long Island Advocacy Center • Jillian Mason, School Counselor/Advocate • Chris McNell, Special Education Supervisor/Principal • Diana Medina Mendez, Parent • Mark Anthony Mendez • Mental Health Association of New York City • Metropolitan Center for Research on Equity and the Transformation of Schools • Susana Montes, Parent • New York Council of Administrators of Special Education (NYCASE) • New York Immigration Coalition • New York Alliance for Inclusion and Innovation • New York Performance Standards Consortium • New York State Association for Bilingual Education • New York State Coalition of 853 Schools • New

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